

DVHA Routing Form

Revision Date 5/1/12

Type of Agreement: **Contract** Agreement #: **22156** Form of Agreement: **Amendment** Amendment #: **1**

Name of Recipient: **Special Services Transportation Agency** Vendor #: **6803**

Program Manager : **Judith Jamieson** Phone #: **802-878-5929**

Agreement Manager: **Meaghan Kelley** Phone #: **802-871-3302**

Brief

Explanation of Agreement: **Increase the maximum amount, extend the contract term one year, and revise Attachment C**

Start Date: **July 1, 2012** End Date: **June 30, 2014** Maximum Amount: **\$4,024,937.09**

Amendments Only: Maximum Prior Amount: **\$1,686,856.09** Percentage of Change: **138.60%**

Bid Process (Contracts Only): ☐ Standard ☐ Simplified ☒ Sole Source ☐ Statutory ☐ Master Contract SOW

Funding Source

Global Commitment 93.778

\$4,024,937.09

Contents of Attached Packet

- ☒ AA-14 ☒ Attachments A, B, C & F ☐ Attachment G - Academic Research
☒ Sole Source Memo ☐ Attachment D - Modifications to C & F ☐ MOU
☐ Qualitative/Justification Memo ☒ Attachment E - Business Associate Agreement ☒ Other: **Base Contract**

Reviewer

Reviewer
Initials

Date In

Date Out

DVHA Grant & Contract Administrator	Kate Jones	<i>KJ</i>	5/20/13	5/20
DVHA BO	Jill Gould	<i>JG</i>	5/20/13	5/20/13
DVHA Commissioner or Designee	Mark Larson, Commissioner	<i>ML</i>	5/20/13	5/20/13
AHS Attorney General	Seth Steinzor, AAG	<i>SS</i>		6/10/13
Following Approvals for Contracts Only:				
AHS CIO				
AHS Central Office	Diane Nealy	<i>DN</i>	6/14	6/17
AHS Secretary	Dixie Henry	<i>DH</i>	6/17/13	6/17/13

Vision Account Codes:

MMIS No PO req

☐ FFATA Entry ☐ Grant Tracking Module Vision PO #: Initials & Date: Approval & B/C:

Note: All sections are required. Incomplete forms will be returned to department.**I. CONTRACT INFORMATION:**

Agency/Department: AHS/ DVHA Contract #: 22156 Amendment #: 1
 Vendor Name: Special Services Transportation Agency VISION Vendor No: 6803
 Vendor Address: 209 Main St., Colchester, VT 05446
 Starting Date: 7/1/2012 Ending Date: 6/30/2014 Amendment Date: 6/30/2013
 Summary of agreement or amendment: Increase the maximum amount, extend the contract term one year, and revise Attachment C

II. FINANCIAL INFORMATION

Maximum Payable: \$4,024,937.09 Prior Maximum: \$ 1,686,856.09 Prior Contract # (If Renewal):
 Current Amendment: \$2,338,081.00 Cumulative amendments: \$ 2,338,081.00 % Cumulative Change: 138.60 %
 Business Unit(s): 3410; ; - [notes:] VISION Account(s): 507600;

III. PERFORMANCE INFORMATIONDoes this Agreement include Performance Measures tied to Outcomes and/or financial reward/penalties? ☒ Yes ☐ No

Estimated Funding Split: G-Fund % S-Fund % F-Fund % GC-Fund 100.00 % Other %

IV. PUBLIC COMPETITION

The agency has taken reasonable steps to control the price of the contract or procurement grant and to allow qualified organizations to compete for the work authorized by this contract. The agency has done this through:

☐ Standard bid or RFP ☐ Simplified Bid ☒ Sole Sourced ☐ Qualification Based Selection ☐ Statutory

V. TYPE OF AGREEMENT & PERFORMANCE INFORMATION

Check all that apply: ☐ Service ☒ Personal Service ☐ Architect/Engineer ☐ Construction ☐ Marketing
☐ Information Technology ☐ Other, describe:

VI. SUITABILITY FOR CONTRACT FOR SERVICE

☒ Yes ☐ No ☐ n/a If this is a Personal Service contract, does this agreement meet all 3 parts of the "ABC" definition of independent contractor? (See Bulletin 3.5) If NO, then contractor must be paid through Payroll

VII. CONTRACTING PLAN APPLICABLE:Are one or more contract or terms & conditions provisions waived under a pre-approved Contracting Plan? ☐ Yes ☒ No**VIII. CONFLICT OF INTEREST**

By signing below, I certify that no person able to control or influence award of this contract had a pecuniary interest in its award or performance, either personally or through a member of his or her household, family, or business.

☐ Yes ☒ No Is there an "appearance" of a conflict of interest so that a reasonable person may conclude that this party was selected for improper reasons: (If yes, explain)

IX. PRIOR APPROVALS REQUIRED OR REQUESTED

☒ Yes ☐ No Agreement must be approved by the Attorney General under 3 VSA §311(a)(10) (personal service)
☒ Yes ☐ No I request the Attorney General review this agreement as to form
 No, already performed by in-house AAG or counsel: _____ (initial)
☐ Yes ☒ No Agreement must be approved by the Comm. of DII; for IT hardware, software or services and Telecommunications over \$100,000
☐ Yes ☒ No Agreement must be approved by the CMO; for Marketing services over \$15,000
☐ Yes ☒ No Agreement must be approved by Comm. Human Resources (privatization and retiree contracts)
☒ Yes ☐ No Agreement must be approved by the Secretary of Administration

X. AGENCY/DEPARTMENT HEAD CERTIFICATION; APPROVAL

I have made reasonable inquiry as to the accuracy of the above information:

5/23/13 [Signature] Date Agency / Department Head
 6/17/13 [Signature] Date Agency Secretary or Other Department Head (if required)
 6/6/13 [Signature] Date Approval by Attorney General
 [Signature] Date Approved by Commissioner of Human Resources
 [Signature] Date Secretary of Administration

JUN 19 2013

State of Vermont
Department of Vermont Health Access
312 Hurricane Lane, Suite 201
Williston VT 05495-2807
www.dvha.vermont.gov

Agency of Human Services
[Phone] 802-879-5900
[Fax] 802-879-5651

MEMORANDUM

TO: Jeb Spaulding; Secretary, Agency of Administration (AOA)

FROM: Mark Larson, Commissioner DVHA

DATE: May 20, 2013

SUBJECT: Special Services Transportation Agency (Contract # 22156)
Amendment 1 Duration: 07/01/12 – 6/30/14
Value of Contract: \$4,024,937.09

Our NEMT program provides transportation to medical appointments for Medicaid beneficiaries who do not have access to a vehicle. These services are delivered through contracts with 7 public transportation providers throughout the state. These providers serve as transportation brokers by receiving ride request calls, verifying eligibility and scheduling the transportation using the least costly mode of transportation appropriate for the beneficiary's medical needs. The brokers maintain volunteer driver networks and procure taxi and van services through sub-contracts.

This contract utilizes a capitated Per Member, Per Month (PMPM) payment structure. Up until this contract, only the administrative costs were addressed in SSTA's PMPM amount. Starting July 1st, all costs (direct and administrative) will be wrapped into the fixed PMPM amount. This change will provide a greater direct financial incentive for SSTA to carefully monitor all utilization and always select the least costly means of transportation. We have established clear performance standards to ensure that this contractor is meeting its obligation to provide reliable high-quality services to our members.

The funding for this contract will be covered by the Global Commitment to Health Appropriations and complies with all mandatory provisions of AOA Bulletin 3.5. If you have any questions about this contract extension or our efforts to improve the NEMT program, please contact Judy Jamieson, Director of Provider and Member Relations. Judy can be reached at 879-5929. DVHA looks forward to the approval of this agreement.



AMENDMENT

It is agreed by and between the State of Vermont, Department of Vermont Health Access (hereafter called the "State") and Special Services Transportation Agency (hereafter called the "Contractor") that the contract on the subject of personal services for Non-Emergency Medical Transportation, effective July 1, 2012, is hereby amended effective June 30, 2013, as follows:

1. By deleting Section 3 (Maximum Amount) on page 1 of 20, and substituting in lieu thereof the following Section 3:

3. **Maximum Amount.** In consideration of the services to be performed by Contract, the State agrees to pay Contractor, in accordance with the payment provisions specified in Attachment B, a sum not to exceed \$4,024,937.09

2. By deleting Section 4 (Contract Term) on page 1 of 20, and substituting in lieu thereof the following Section 4:

4. **Contract Term.** The period of the Contractor's performance shall begin on July 1, 2012 and end on June 30, 2014. This contract may be extended for up to one (1) additional one-year term upon mutual agreement by both parties.

3. By deleting Attachment B (Payment Provisions), beginning on page 5 of 20, and substituting in lieu thereof the following Attachment B:

ATTACHMENT B PAYMENT PROVISIONS

The State will pay the Contractor on a Per Member, Per Month (PMPM) basis. In addition to the PMPM payment, the Contractor will be allowed to bill Medicaid for any complete trip that costs more than \$500 (round trip, including lodging and other expenses). These trips will be billed as claims to Medicaid in accordance with the State's Provider Manual and billing instructions.

The State developed this PMPM payment model in order to provide an incentive to the Contractor for efficient and cost-effective performance. The PMPM dollar amount was developed by analyzing utilization and performance data from previous years. Because these prior-year conditions may change, the State agrees to negotiate in good faith to modify this contract whenever:

1. The Contractor can demonstrate that a change in utilization or other conditions will have a financial impact of more than \$3,000 AND one of the following statements (2 through 5 below) is also true.
2. The Contractor experiences a change in the number and/or cost of rides delivered per member, per month.
3. Fuel prices change by more than 15%. Fuel prices will be based on U.S. Energy Information Administration data for New England (Area PADD 1A). At the time of this writing (the week of 5/7/12), the Gasoline-All Grades price is \$3.947/gallon and the Diesel (On-Highway)-All Types price is \$4.232/gallon.
4. There is an increase in the IRS mileage rate for personal vehicles. This contract was developed using data from a contract period with a mileage rate of \$0.51 per mile.

5. There is any other increase in costs that are clearly out of the direct control of the Contractor.

Under no circumstances will the State negotiate a higher PMPM due to deficiencies in the Contractor's performance.

In order to help track utilization, the Contractor will submit claims to Medicaid for all direct transportation services provided to the State's members. These claims will be "paid" by the State's claims adjudication system with a zero dollar amount. The data submitted in these claims will be used to generate the weekly payment described below.

In order to make timely payments to the Contractor, the State will make the PMPM payments in weekly installments. These weekly payments will be based on a Per Member, Per Week (PMPW) basis. The following formula will be used to convert the PMPM to a PMPW for the purpose of making weekly payments to the Contractor: $(PMPM \times 12)/52$

The Contractor's PMPM dollar amount will be determined through negotiation with State during the first six months of the contract period. When the PMPM is developed, both parties agree to negotiate an amendment to this contract to quantify the actual PMPM dollar amount and make any necessary changes to the maximum contract amount.

From July 1, 2013 through June 30, 2014, the Contractor's PMPM for administrative services will be: \$24.57

The weekly payments will be calculated using the following method:

1. Each week, the State will generate a report of the total number of unduplicated individuals served by the Contractor over the prior 12 months.
2. State will multiply the number of unique recipients by the PMPW dollar amount and make the payment during the following week's electronic payment to the Contractor's bank account.
3. The State will send weekly Remittance Advice documents to the Contractor.
4. In the event that the weekly payment cannot happen due to data or processing errors, the State will send the payment in the following week. The State agrees to make these payments on a weekly basis, but it will not be considered a breach of this contract if the State postponed a payment for one week due to a data or processing error.

The State does not agree to pay any costs not specifically described in this contract or the NEMT Manual.

If the State determines that one or more of the performance measures described in Attachment A have not been met, the Contractor will receive written notice of the deficiency as well as the amount of money the Contractor is at risk of forfeiting. The State will consider the severity of the deficiency and determine the amount of funding that may be forfeited by the Contractor. This amount will not exceed \$10,000. The Contractor will then have 15 days to respond with a corrective action plan to address the deficiency. If the State approves the corrective action plan and the Contractor meets the performance measures in the following invoice period, the State will release the retained funds. If the Contractor fails to correct the deficiency, the Contractor will permanently forfeit the funds. At the State's discretion, the Contractor may be given a longer period to correct the performance deficiency.

STATE OF VERMONT
AMENDMENT TO PERSONAL SERVICES CONTRACT
SPECIAL SERVICES TRANSPORTATION AGENCY

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CONTRACT 22156
AMENDMENT #1

If the Contractor wishes to dispute any decision that results in forfeited funding, the Contractor may request a meeting with the Commissioner of the Department of Vermont Health Access (or his/her delegate) to discuss the decision.

4. By deleting Attachment C (Customary Provisions for Contracts and Grants), beginning on page 7 of 20, revised 1/11/11, and substituting in lieu thereof Attachment C revised 11/7/12, which is an attachment beginning on page 4 of 7 of this Amendment 1.

This amendment consists of 7 pages. Except as modified by this amendment and any previous amendments, all provisions of this contract, (#22156) dated July 1, 2012 shall remain unchanged and in full force and effect.

STATE OF VERMONT

CONTRACTOR

DEPARTMENT OF VERMONT HEALTH ACCESS

SPECIAL SERVICES TRANSPORTATION AGENCY

E-SIGNED by Mark Larson
on 2013-Jun-27

E-SIGNED by Murray Benner
on 2013-Jun-27

MARK LARSON, COMMISSIONER

DATE

MURRAY BENNER, EXECUTIVE DIRECTOR

DATE

ATTACHMENT C
CUSTOMARY PROVISIONS FOR CONTRACTS AND GRANTS

1. **Entire Agreement.** This Agreement, whether in the form of a Contract, State Funded Grant, or Federally Funded Grant, represents the entire agreement between the parties on the subject matter. All prior agreements, representations, statements, negotiations, and understandings shall have no effect.
2. **Applicable Law.** This Agreement will be governed by the laws of the State of Vermont.
3. **Definitions:** For purposes of this Attachment, "Party" shall mean the Contractor, Grantee or Subrecipient, with whom the State of Vermont is executing this Agreement and consistent with the form of the Agreement.
4. **Appropriations:** If appropriations are insufficient to support this Agreement, the State may cancel on a date agreed to by the parties or upon the expiration or reduction of existing appropriation authority. In the case that this Agreement is funded in whole or in part by federal or other non-State funds, and in the event those funds become unavailable or reduced, the State may suspend or cancel this Agreement immediately, and the State shall have no obligation to fund this Agreement from State revenues.
5. **No Employee Benefits For Party:** The Party understands that the State will not provide any individual retirement benefits, group life insurance, group health and dental insurance, vacation or sick leave, workers compensation or other benefits or services available to State employees, nor will the state withhold any state or federal taxes except as required under applicable tax laws, which shall be determined in advance of execution of the Agreement. The Party understands that all tax returns required by the Internal Revenue Code and the State of Vermont, including but not limited to income, withholding, sales and use, and rooms and meals, must be filed by the Party, and information as to Agreement income will be provided by the State of Vermont to the Internal Revenue Service and the Vermont Department of Taxes.
6. **Independence, Liability:** The Party will act in an independent capacity and not as officers or employees of the State.

The Party shall defend the State and its officers and employees against all claims or suits arising in whole or in part from any act or omission of the Party or of any agent of the Party. The State shall notify the Party in the event of any such claim or suit, and the Party shall immediately retain counsel and otherwise provide a complete defense against the entire claim or suit. The Party shall notify its insurance company and the State within 10 days of receiving any claim for damages, notice of claims, pre-claims, or service of judgments or claims, for any act or omissions in the performance of this Agreement.

After a final judgment or settlement the Party may request recoupment of specific defense costs and may file suit in Washington Superior Court requesting recoupment. The Party shall be entitled to recoup costs only upon a showing that such costs were entirely unrelated to the defense of any claim arising from an act or omission of the Party.

The Party shall indemnify the State and its officers and employees in the event that the State, its officers or employees become legally obligated to pay any damages or losses arising from any act or omission of the Party.

7. **Insurance:** Before commencing work on this Agreement the Party must provide certificates of insurance to show that the following minimum coverage is in effect. It is the responsibility of the Party to maintain current certificates of insurance on file with the state through the term of the Agreement. No warranty is made that the coverage and limits listed herein are adequate to cover and protect the interests of the Party for the Party's operations. These are solely minimums that have been established to protect the interests of the State.

Workers Compensation: With respect to all operations performed, the Party shall carry workers' compensation insurance in accordance with the laws of the State of Vermont.

General Liability and Property Damage: With respect to all operations performed under the Agreement, the Party shall carry general liability insurance having all major divisions of coverage including, but not limited to:

Premises - Operations
Products and Completed Operations
Personal Injury Liability
Contractual Liability

The policy shall be on an occurrence form and limits shall not be less than:

\$1,000,000 Per Occurrence
\$1,000,000 General Aggregate
\$1,000,000 Products/Completed Operations Aggregate
\$ 50,000 Fire/ Legal/Liability

Party shall name the State of Vermont and its officers and employees as additional insureds for liability arising out of this Agreement.

Automotive Liability: The Party shall carry automotive liability insurance covering all motor vehicles, including hired and non-owned coverage, used in connection with the Agreement. Limits of coverage shall not be less than: \$1,000,000 combined single limit.

Party shall name the State of Vermont and its officers and employees as additional insureds for liability arising out of this Agreement.

Professional Liability: Before commencing work on this Agreement and throughout the term of this Agreement, the Party shall procure and maintain professional liability insurance for any and all services performed under this Agreement, with minimum coverage of \$N/A per occurrence, and \$N/A aggregate.

8. **Reliance by the State on Representations:** All payments by the State under this Agreement will be made in reliance upon the accuracy of all prior representations by the Party, including but not limited to bills, invoices, progress reports and other proofs of work.
9. **Requirement to Have a Single Audit:** In the case that this Agreement is a Grant that is funded in whole or in part by federal funds, the Subrecipient will complete the Subrecipient Annual Report annually within 45 days after its fiscal year end, informing the State of Vermont whether or not a single audit is required for the prior fiscal year. If a single audit is required, the Subrecipient will submit a copy of the audit report to the granting Party within 9 months. If a single audit is not required, only the Subrecipient Annual Report is required.

A single audit is required if the subrecipient expends \$500,000 or more in federal assistance during its fiscal year and must be conducted in accordance with OMB Circular A-133. The Subrecipient Annual Report is required to be submitted within 45 days, whether or not a single audit is required.

10. **Records Available for Audit:** The Party will maintain all books, documents, payroll papers, accounting records and other evidence pertaining to costs incurred under this agreement and make them available at reasonable times during the period of the Agreement and for three years thereafter for inspection by any authorized representatives of the State or Federal Government. If any litigation, claim, or audit is started before the expiration of the three year period, the records shall be retained until all litigation, claims or audit findings involving the records have been resolved. The State, by any authorized representative, shall have the right at all reasonable times to inspect or otherwise evaluate the work performed or being performed under this Agreement.
11. **Fair Employment Practices and Americans with Disabilities Act:** Party agrees to comply with the requirement of Title 21V.S.A. Chapter 5, Subchapter 6, relating to fair employment practices, to the full extent applicable. Party shall also ensure, to the full extent required by the Americans with Disabilities Act of 1990, as amended, that qualified individuals with disabilities receive equitable access to the services, programs, and activities provided by the Party under this Agreement. Party further agrees to include this provision in all subcontracts.
12. **Set Off:** The State may set off any sums which the Party owes the State against any sums due the Party under this Agreement; provided, however, that any set off of amounts due the State of Vermont as taxes shall be in accordance with the procedures more specifically provided hereinafter.
13. **Taxes Due to the State:**
 - a. Party understands and acknowledges responsibility, if applicable, for compliance with State tax laws, including income tax withholding for employees performing services within the State, payment of use tax on property used within the State, corporate and/or personal income tax on income earned within the State.
 - b. Party certifies under the pains and penalties of perjury that, as of the date the Agreement is signed, the Party is in good standing with respect to, or in full compliance with, a plan to pay any and all taxes due the State of Vermont.
 - c. Party understands that final payment under this Agreement may be withheld if the Commissioner of Taxes determines that the Party is not in good standing with respect to or in full compliance with a plan to pay any and all taxes due to the State of Vermont.
 - d. Party also understands the State may set off taxes (and related penalties, interest and fees) due to the State of Vermont, but only if the Party has failed to make an appeal within the time allowed by law, or an appeal has been taken and finally determined and the Party has no further legal recourse to contest the amounts due.
14. **Child Support:** (Applicable if the Party is a natural person, not a corporation or partnership.) Party states that, as of the date the Agreement is signed, he/she:
 - a. is not under any obligation to pay child support; or
 - b. is under such an obligation and is in good standing with respect to that obligation; or

- c. has agreed to a payment plan with the Vermont Office of Child Support Services and is in full compliance with that plan.

Party makes this statement with regard to support owed to any and all children residing in Vermont. In addition, if the Party is a resident of Vermont, Party makes this statement with regard to support owed to any and all children residing in any other state or territory of the United States.

15. **Sub-Agreements:** Party shall not assign, subcontract or subgrant the performance of this Agreement or any portion thereof to any other Party without the prior written approval of the State. Party also agrees to include in subcontract or subgrant agreements a tax certification in accordance with paragraph 13 above.

Notwithstanding the foregoing, the State agrees that the Party may assign this agreement, including all of the Party's rights and obligations hereunder, to any successor in interest to the Party arising out of the sale of or reorganization of the Party.

16. **No Gifts or Gratuities:** Party shall not give title or possession of any thing of substantial value (including property, currency, travel and/or education programs) to any officer or employee of the State during the term of this Agreement.

17. **Copies:** All written reports prepared under this Agreement will be printed using both sides of the paper.

18. **Certification Regarding Debarment:** Party certifies under pains and penalties of perjury that, as of the date that this Agreement is signed, neither Party nor Party's principals (officers, directors, owners, or partners) are presently debarred, suspended, proposed for debarment, declared ineligible or excluded from participation in federal programs, or programs supported in whole or in part by federal funds.

Party further certifies under pains and penalties of perjury that, as of the date that this Agreement is signed, Party is not presently debarred, suspended, nor named on the State's debarment list at:

<http://bgs.vermont.gov/purchasing/debarment>

19. **Certification Regarding Use of State Funds:** In the case that Party is an employer and this Agreement is a State Funded Grant in excess of \$1,001, Party certifies that none of these State funds will be used to interfere with or restrain the exercise of Party's employee's rights with respect to unionization.